

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FALENCIA A. FAIR

Plaintiff,

v.

AT&T TELEHOLDINGS, INC., et al.,

Defendants.

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Case No. 1:19-cv-01181

Judge Christopher Boyko

DEFENDANTS' REPLY BRIEF IN SUPPORT OF MOTION TO DISMISS AND
BRIEF IN OPPOSITION TO REMAND

Defendants The Ohio Bell Telephone Company, Victoria Green, Lashon Borom, Brook Cisneros, Janice King, and Sedgwick Claims Management Services, Inc. (collectively, "Defendants"), submit this brief pursuant to the Court's June 10, 2019 Order. (ECF No. 12).

Plaintiff filed this action on April 23, 2019, in the Court of Common Pleas, Cuyahoga County, Ohio.¹ On May 22, 2019, Defendants removed the lawsuit to this Court on the basis of federal question jurisdiction because Plaintiff's Complaint asserts claims solely under federal law – Title VII, the Americans with Disabilities Act, and the Age Discrimination in Employment Act. (ECF No. 1). On May 24, 2019, Defendants filed

¹ This is Plaintiff's second lawsuit against Defendants. In her first lawsuit, Case No. 1:16-CV-0186-CAB, Plaintiff initiated the lawsuit and then refused to participate in discovery – the case languished for nearly three years largely due to Plaintiff's delay tactics. Plaintiff was represented by counsel during a portion of this three-year period, but her attorney filed a motion to withdraw as counsel for cause, which the Court granted. Plaintiff sought leave of court to dismiss her lawsuit without prejudice, and the Court granted Plaintiff's motion over Defendants' objections.

a Motion to Dismiss under Fed. R. Civ. P. 12(b)(6) because Plaintiff's Complaint fails to assert any claim for which relief can be granted. (ECF No. 4). In response, Plaintiff filed a "Memorandum in Opposition to Post Removal" and a "Motion to Strike Any Motions/Post-Removal" on May 29, 2019. (ECF Nos. 6-7). Interpreting these motions as a motion to remand, Defendants filed on June 6, 2019 their Brief in Opposition to Plaintiff's Motion to Remand and Motion to Strike. (ECF No. 9). On June 10, 2019 this Court issued an order that (1) granted Plaintiff leave to file by July 10, 2019 a motion setting forth arguments and legal authorities in support of remand and in opposition to Defendants' Motion to Dismiss; and (2) granted Defendants leave to file a combined brief in opposition to remand and in support of their Motion to Dismiss. (ECF No. 12). On June 28, 2019, Plaintiff filed with the Court a motion for appointment of counsel.

Plaintiff did not file a motion to remand or oppose Defendants' Motion to Dismiss by the Court's July 10 deadline (or at all). Accordingly, and for the reasons set forth in Defendants' Motion to Dismiss (ECF No. 4) and Brief in Opposition to Remand (ECF No. 9), Defendants respectfully request that the Court dismiss Plaintiff's lawsuit with prejudice in its entirety.

Respectfully submitted,

/s/ Amy Ryder Wentz

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July 24, 2019

Attorneys for Defendants
THE OHIO BELL TELEPHONE
COMPANY (MISTAKENLY NAMED
"AT&T TELEHOLDINGS, INC."),
VICTORIA GREEN, LASHON BOROM,
BROOKE CISNEROS, JANICE KING,
AND SEDGWICK CLAIMS
MANAGEMENT SERVICES, INC.

CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2019, a copy of the foregoing *Defendants' Reply Brief in Support of Motion to Dismiss and Brief in Opposition to Remand* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Amy Ryder Wentz

Amy Ryder Wentz

One of the Attorneys for Defendants